

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Case No. F.A.O No. 641 of 1988

Sona Devi and others ... Date of decision 1.9.2006
Appellants

Versus

Partap Singh and others ... Respondents.

Present: None for the appellants.

Mr. S.S.Aulakh, Advocate
for the Insurance Company.

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RANJIT SINGH, J

A sum of Rs.15,000/- is the compensation assessed for a wife, three minor daughters and a minor sister on account of the death of the deceased, who was husband, father and brother of the claimants respectively. What a princely sum of compensation of Rs.3,000/- for a poor wife for loss of her husband. Three minor daughters aged about 6 years, 4 years and 8 months will have to spend their lives with the fortune of Rs.1,000/-each, assessed as compensation for them due to the death of their father. To say the least, it is a pittance. Despite finding negligence on the part of the vehicle driver he has been allowed to get away without any liability to compensate the appellants for having caused the death of deceased, who was husband/father/brother of the appellants.

On 16.9.1986, Prem Singh deceased was travelling in a four wheeler bearing registration no. HYB 3530 from Hansi to Tosham. This four wheeler was driven by Kartar Singh, respondent no.1. In the area of village Hazampur, this four wheeler lost control and first hit a cyclist and then a Kikar tree before falling into a pit. As a result, all the occupants of the four wheeler received injuries. Prem Singh deceased was admitted in the hospital at Hansi where he died

on 20.9.1986. First information report was also lodged with the Police.

In the written statement, the allegation of rash and negligent driving was denied. It was pleaded that the accident took place because of a mechanical failure and was thus beyond the control of driver, respondent no.1. The Insurance Company, in its written statement, mentioned that it was not liable to pay any compensation though it did not deny the accident that had taken place. Trial followed. Jagdish son of Chandgi Ram gave an eye account of the accident being an occupant of the four wheeler at the time of accident. As per his version, the driver of the four wheeler had lost control while saving a cyclist and had thus struck against a Kikar tree. Partap Singh, respondent appearing as a witness pleaded that the accident took place due to a mechanical defect in the four wheeler. After assessing the evidence led in the case, the Tribunal concluded that the driver of the four wheeler was rash and negligent in his driving and, accordingly, the said issue was decided in favour of the appellants-claimants. Having done so, the Tribunal has apparently shown total disregard to the loss of human life. Referring to the evidence of Smt. Sona Devi, wife of the deceased, one of the claimants, the Tribunal came to the conclusion that there was no loss in income of the appellant-claimant and hence held that they were not entitled to any compensation due to the death of the deceased. The Tribunal, however, was generous enough to award a meagre sum of Rs.15,000/- to the wife, three minor daughters and a minor sister, to be shared equally as a no fault liability.

The misfortune of the appellant-claimant seems to have continued. No one has put in appearance on their behalf at the time of hearing of this appeal.

Mr. S.S.Aulakh, appearing for the respondent-Insurance Company could not justify the approach of the Tribunal in denying payment of compensation and leaving them with totally inadequate compensation of Rs.15,000/-. Three minor daughters who had lost their father, have been asked to

find solace with Rs.1,000/- each as compensation. The wife has been awarded a sum of Rs.3,000/- on the ground that she still has an income and, as such, has not suffered any thing on account of the death of her husband. Such an approach cannot be justified. It is true that appellant-claimant, Sona Devi while appearing as PW-4, stated that she is getting an income of Rs.10,000/- from the agriculture and sale of sheep and goats but on that account, denying compensation would, in my opinion, amount to adding insult to injuries. She otherwise clearly stated in her evidence that her husband was having an income of Rs.2,000/- to Rs.2,500/- per month from the agricultural land as well as from selling milk and, as such, was contributing Rs.600/- to Rs.700/- per month to his family. No evidence in rebuttal was led by the respondent in regard to the earning of the deceased. It was also stated by PW-5 Jagdish that late Prem Singh was having an income of Rs.2,000/- per month. Relying upon the evidence of Sona Devi, PW-4, that she was still having an income, it was held by the Tribunal that she had not suffered any financial loss after the death of her husband. Firstly, it is not established from the record that Sona Devi was having income of Rs.24,000/- per year. The evidence which formed the basis of this, was the earning of Rs.10,000/- from the sale of sheep and goats and another sum of Rs.400/- per month from the sale of milk etc. Even if , this was to be taken as income of Sona Devi, she still would earn approximately Rs.14,000/-per annum. How it came to be assessed as Rs.24,000/- is not understood. It appears that she is an illiterate rustic villager and this evidence has been cleverly brought on record either in her version or during cross-examination due to intelligence of advocate opposing him. This has been then taken into consideration for denying her compensation. What about the loss suffered by the minor children ? Is the pecuniary loss the only loss which one suffers on account of the death of a dear one like father, husband or brother ? It is required to be appreciated that deceased Prem Singh was apparently having income from agriculture, sale of milk or sale of sheep and goats. It is reasonable to

assume that he must be self employed in the agricultural work and sale of milk etc. It can thus be seen that the wife, Sona Devi, appellant was free to run the household affair. With the loss of her husband, she cannot be expected to pursue this agricultural profession and sale of milk etc. herself alone. It can reasonably be expected that she has to employ a person to do or help her in agricultural and other activities. She has lost the company of her husband apparently at this young age. She has been left alone to look after three young siblings who are required to be educated and ultimately are to be married. These three minor children, one of whom was 8 months old, were left to fend for themselves. These three young lives were deprived of love and affection of their father. So too can be said about this young lady who lost her husband. Apart from pecuniary damages, all these appellants suffered non-pecuniary damage on account of this death. Physical and mental shock and other agony that these claimants suffered had not received any attention of the Tribunal.

Having regard to all these factors, I would have no hesitation in holding that the appellants-claimants deserve better treatment and are required to be paid compensation. It has been stated by appellant-Sone Devi that her late husband was contributing a sum of Rs.600/- to Rs.700/- per month to the family. Even if she continues to get income from agricultural and other sources, she is bound to have suffered a loss due to this death. It can be assumed that the claimant, in order to have income from agriculture and sale of milk etc., was required to employ another helping hand due to the death of her husband. The family, as such, has not only suffered the loss but had been compelled to incur expenditure to maintain the income that they were having. Accordingly, I would hold that the appellant had suffered loss of Rs.700/- per month which late Prem Singh was contributing to his family, if not more. The dependency, as such, would work out to Rs.8,400/- per year.

Having regard to the age of the appellant and the deceased, a

multiplier of 16 would, in my view, be appropriate. Thus, a sum of Rs.1,34,400/- (Rupees One Lac thirty-four thousand and four hundred) (8,400 x 16) is payable as compensation to the appellant and I order accordingly. This amount would be paid in addition to Rs.15,000/- in terms of the order passed by the Tribunal. Appellant-wife and her three minor daughters would take Rs.1,14,000/- out of the above compensation and the remaining Rs.20,400/- would be payable to the sister of the deceased. The appellants are also held entitled to interest at the rate of 9 per cent per annum from the date it is due to the date of payment.

The appeal is allowed in the above terms.

**(RANJIT SINGH)
JUDGE**

September 1, 2006

RS